

FILED  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF DELAWARE

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

2006 FEB -7 AM 10:01

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

)

)

v.

) I.D. No. 0503008273

)

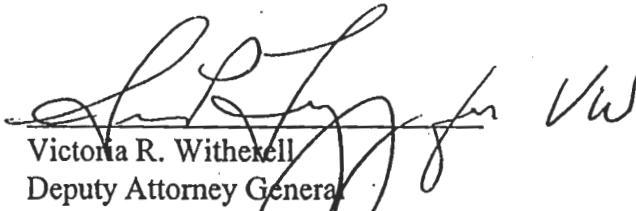
ANDREW RANKIN

)

**NOTICE OF MOTION**

TO: Joe Hurley, Esquire  
1215 N. King Street  
Wilmington, DE 19801

**PLEASE TAKE NOTICE** that the attached Motion for Continuance will be presented  
on Monday, February 6, 2006.

  
Victoria R. Witherell  
Deputy Attorney General  
Department of Justice  
820 N. French Street, 7<sup>th</sup> Floor  
Wilmington, DE 19801

Dated: January 31, 2006

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE )  
 )  
 v. ) I.D. No. 0503008273  
 )  
 ANDREW RANKIN )

**MOTION FOR CONTINUANCE**

COMES NOW, the State of Delaware, by and through the undersigned Deputy Attorney General, Victoria R. Witherell and moves this Honorable Court to reconsider the State's Motion for Continuance. A previous form motion was filed on January 17, 2006 and was subsequently denied by Judge Carpenter. The following assertions are offered by the State to provide more detail as to the need of the continuance.

1. Defendant is charged with Vehicular Homicide First Degree and Driving While Under the Influence of Alcohol. The undersigned was specifically assigned to handle this case due to the seriousness of the offenses.
2. In December 2005, the State received a phone message from Joseph Hurley, Esquire, defense attorney, advising that he would be unavailable for trial on May 2, 2006 due to a previously scheduled trial scheduled to begin prior to May 2, 2006 and expected to run past May 2, 2006. He suggested that we request to delay the trial one week.
3. By response to Mr. Hurley's request to reschedule, this prosecutor left a voice message for Mr. Hurley that the State would not oppose his continuance request.
4. At about the same time, the State received correspondence from the Chief Investigating Officer, Jeff Weaver of the Delaware State Police Fatal Accident Investigation and Reconstruction Team, that he would be unavailable, during the following time periods: May 1

through - May 7, 2006; May 22 through - May, 28, 2006; and June 12 through June 18, 2006.

Further, this prosecutor informed the Court on October 14, 2005 that she was unavailable on May 5, 2006. It should also be noted that the prosecutor was on vacation from December 15, 2005 and December 16, 2005 and from December 21, 2005 through January 1, 2006.

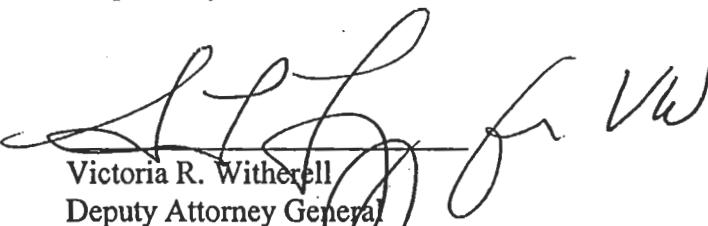
5. When the State realized Mr. Hurley had not filed such a request the State filed its own request.

6. The State has discussed the possibility of a May 9, 2006 trial date with Mr. Hurley, who agreed that he could be available to begin trial on that date.

7. The State asserts that this is a serious matter and justice would best be served by moving the trial date one week.

**WHEREFORE**, the State respectfully requests that the trial date in the above-referenced matter be moved from May 2, 2006 to May 9, 2006.

Respectfully submitted,



Victoria R. Witherell  
Deputy Attorney General  
Department of Justice  
820 N. French Street, 7<sup>th</sup> Floor  
Wilmington, DE 19801

Dated: January 31, 2006

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

)

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v.

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)

ANDREW RANKIN

)

O R D E R

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2006 that the State's Motion  
for Continuance is hereby GRANTED.

SO ORDERED.

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J.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE )  
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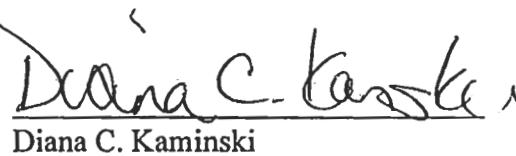
AFFIDAVIT OF MAILING

**BE IT REMEMBERED** this 31<sup>st</sup> day of January, 2006, that Diana C. Kaminski, being first duly sworn did depose and say:

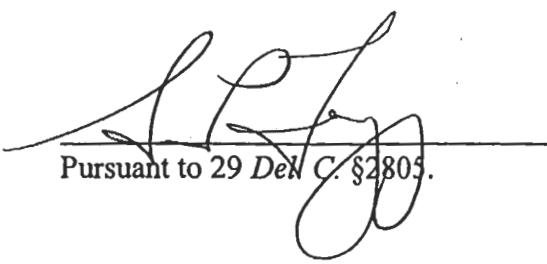
1. That she is a Secretary for the Department of Justice, State of Delaware.
2. That she did cause to be delivered by regular mail and/or hand delivery two copies

of the within **State's Motion for Continuance** to:

Joe Hurley, Esquire  
1215 N. King Street  
Wilmington, DE 19801

  
Diana C. Kaminski

**SWORN TO AND SUBSCRIBED** by me the day and year aforesaid.

  
Pursuant to 29 Del C. § 2805.